

(10)

REASONS humbly offer'd for Confirming the Sales made by the late Trustees, of the Forfeited Estates, and other Interests in Ireland.

IT is admitted that the Trustees had Jurisdiction,

1. To hear and determine all Claims upon forfeited Estates, and that their Determination thereon should be final.
2. That they should afterwards sell the same Estates, subject to such Claims allow'd; and that the Purchasers should hold against all Persons, except such Claimants.

Notwithstanding this Admission, it is said,

1. That any Person is now at liberty to bring Ejectments against the Purchasers: And to say, That the Estate so sold was not forfeited, and thereupon put the Purchaser to prove the Title of the forfeiting Person. For say they, The Jurisdiction of the Trustees was restrain'd to forfeited Estates. Ergo, If the Estate was not forfeited, they had no Jurisdiction.

This sounds like *Law*, but ends in a *Fallacy*. For to every Jurisdiction these Powers are incident:

1. A Power to do *Right*, and this is express'd in their Commissions, *Quod faciant secundum Legem & Consuetudinem*.
2. A Power to distinguish between *Right* and *Wrong*; and this is not express'd, but intended: without which they could not determine.
3. A Power to do *Wrong* (by mistaking of the *Right*) and this is neither express'd nor intended, but is the necessary Consequence of the two former. Shew me a Power to do *Right*, and I'll shew you a Power to do *Wrong*.

And whoever is injur'd by this *Mistake*, is concluded by it, till he hath appeal'd from -it.

Now as to the Jurisdiction of the Trustees, the express'd Power given to them was:

1. To find out and sell forfeited Estates.
2. But in order to that, they had an intended Power to distinguish forfeited from not forfeited.
3. And by consequence they had a Power to do wrong, by mistaking not forfeited for forfeited.

Which Power is neither more restrain'd nor more enlarg'd, than the Powers of all other Jurisdictions are; and therefore their Jurisdiction was no Monster.

Now supposing them to have done some Wrongs by mistake; *Humanum est errare*.

Shall the injur'd Persons be admitted to resort to another Judicature, to try this Right or Wrong over again?

1. This is an Elusion of the whole Act, which gives no Appeal.
2. It tends to the Dishonour of the Legislature, who have made the Act a general Warranty to the Purchasers.
3. It puts the Purchasers evicted to resort to the Legislature for their Purchase-Money, with a Bill of Costs and Charges at the end of it: which, if refus'd, gives a blow to the publick Credit;

If granted, opens a Gap for defrauding the publick Treasure, to answer Evictions, which may be had by Collusion.

Therefore for the Honour of the Legislature, and the Preservation of the publick Credit and Treasure, it seems highly reasonable, That these Sales should be declar'd to stand confirm'd.

And in doing this, the Legislature maintains the Maxim of the Law: *To suffer private Injuries, rather than a publick Inconvenience*.

And yet these injur'd Persons are not without remedy, having still an Appeal to the Legislature, who are daily giving Relief to Complainants (from *Ireland*) in pity: Sure then! they will not refuse Demandants of Justice from thence.

Nor is this Appeal to the Legislature so inaccessible, as to run thro the whole Judicature: As,

1. A special Verdict on a Tryal in the proper County.
2. Arguing that Verdict four Terms in the four Courts at *Dublin*.
3. Removing their Judgment into *Westminster-Hall*, and arguing it there three or four Terms more.
4. Removing their Judgment into the House of Peers.

All this hath been done in the first Instance of this (pretended) Injury. In which the Purchaser insisted on the Act as a Bar, without shewing the Title of the forfeiting Person. But it was adjudg'd against him.

R E A S O N S

F O R

Confirming the Sales of
the Forfeited Estates in
Ireland.